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March 15, 2024

VIA ECF and Email

Hon. Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007
Email: Failla_NYSDChambers@nysd.uscourts.gov

MEMO ENDORSED

Re: Bayonne B, LLC et al. v. Barrington Media Group, LLC
U.S.D.C, SDNY, Case No. 1:23-cv-08213-KPF

Dear Judge Failla:

We represent the Plaintiffs in this case. We write to request that (i) the Court address as promptly as possible as a threshold issue the defendant's assertion that the Court lacks subject matter jurisdiction, and (ii) the initial pretrial conference the Court scheduled for April 24, 2024 be rescheduled due to a previous travel commitment by undersigned counsel.

Counsel for defendant Barrington Media Group, LLC d/b/a/ BMG 360 ("BMG") has advised the undersigned counsel for Plaintiffs that the Court lacks jurisdiction in this case because the parties are not diverse, and diversity jurisdiction is the sole basis for subject matter jurisdiction. BMG's Answer also alleges as its First Affirmative Defense lack of subject matter jurisdiction.

As alleged in the Complaint, both Plaintiffs are citizens of the State of New York. Plaintiff Bayonne B, LLC is a limited liability company, whose sole member is a citizen of the State of New York, and Plaintiff Riparian Holdings, LLC is a limited liability, the two members of which are both citizens of the State of New York. Based on a search of publicly available records, the Complaint alleged, on information and belief, that BMG's sole member was a citizen of the State of Connecticut. However, in BMG's Rule 7.1 Statement, filed on November 21, 2023 (Dkt. No. 9), BMG, a limited liability company, alleged that the entities whose citizenship was attributable to BMG included various Delaware entities, including Barrington Media Holdings, LLC, which BMG alleged is "comprised of numerous unitholder members in New York." If this is accurate, then diversity of citizenship is lacking as both sides would be considered New York citizens, and the Court lacks subject matter jurisdiction. To resolve this issue, the Court should direct BMG to

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identify the “numerous unitholder members in New York” referenced in its Rule 7.1 Statement and their citizenship to determine whether the Court may proceed to exercise subject matter jurisdiction in this case. As this is a threshold issue that determines the Court’s power to hear this case, we respectfully request that this be resolved as promptly as possible and prior to any other discovery or scheduling issues in this case.

Secondly, on March 14, 2024, the Court scheduled an initial telephonic conference for April 24, 2024 at noon. Plaintiffs’ undersigned counsel is the sole attorney familiar with the facts and circumstances of this case, and has a previously scheduled flight during the time of the conference. Accordingly, we respectfully request that the conference be rescheduled to a different date. Plaintiffs’ counsel is available on any of the following dates: April 22-23, 29, 30, May 6-10, 1-15, 17, 20-24, 28-31.

Thank you for your consideration.

Respectfully submitted,

/s/Theodore R. Snyder

Theodore R. Snyder

cc: David Slossberg, Esq.
Daniel Sorger, Esq. (both via ECF)

Application GRANTED. Defendant Barrington Media Group, LLC is hereby ORDERED to identify the “numerous unitholder members in New York” referenced in its Rule 7.1 Statement, as well as their citizenship, on or before **March 25, 2024**, such that Plaintiffs may assess whether this court has jurisdiction over this matter and take appropriate action.

Further, the initial pretrial conference currently scheduled for April 24, 2024, is hereby ADJOURNED to **May 7, 2024**, at **11:00 a.m.**

The Clerk of Court is directed to terminate the pending motion at docket entry 23.

SO ORDERED.

Dated: March 18, 2024
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE